

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ALABAMA  
EASTERN DIVISION

HENRY NEAL FERGUSON III, )  
vs. )  
Petitioner, ) Case No. 1:08-cv-1983-IPJ-TMP  
vs. )  
DAVID J. WISE, Warden; ATTORNEY )  
GENERAL OF THE STATE OF )  
ALABAMA, )  
vs. )  
Respondents. )

O R D E R

On February 17, 2009, the magistrate judge filed his report and recommendation in the above-styled cause, recommending that this petition for *habeas corpus* relief filed pursuant to 28 U.S.C. § 2254 be dismissed without prejudice. No objections have been filed.

Having now carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the Court is of the opinion that the report is due to be and hereby is ADOPTED, and the recommendation is ACCEPTED. Consequently, the petition for writ of *habeas corpus* filed pursuant to 28 U.S.C. § 2254 in the above-styled cause is due to be and the same is hereby DISMISSED WITHOUT PREJUDICE, due to petitioner's failure to receive authorization from the Eleventh Circuit Court of Appeals to file a successive petition, leaving this court without jurisdiction to consider the petition.

DONE and ORDERED this the 19<sup>th</sup> day of March, 2009.



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INGE PRYTZ JOHNSON  
U.S. DISTRICT JUDGE